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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JESSE DARNELL,

9 Petitioner,

v.

10 STATE OF WASHINGTON,

11 Respondent.

CASE NO. C20-05417-BHS-JRC

ORDER DECLINING TO ADOPT
REPORT AND
RECOMMENDATION AS MOOT

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 6 and
15 petitioner’s subsequent filing of an amended petition, Dkt. 7.

16 Petitioner filed his proposed petition on May 14, 2020. Dkt. 1. On June 25, 2020,
17 Judge Creatura issued an order declining to require respondent to file an answer because
18 the petition did not comply with the Rules Governing Section 2254 Cases. Dkt. 4. Judge
19 Creatura granted petitioner leave to file an amended petition on or before July 25, 2020 to
20 cure the deficiencies but warned that failure to comply would result in a recommendation
21 that this case be dismissed. *Id.* Petitioner failed to comply with Judge Creatura’s order
22 by the July 25, 2020 deadline. Accordingly, on August 20, 2020, Judge Creatura issued a

1 Report and Recommendation that recommended dismissal of this case without prejudice.

2 Dkt. 6.

3 However, on August 25, 2020, petitioner filed an amended petition. Dkt. 7.

4 Therefore, this Court declines to adopt the R&R as moot and re-refers this matter to

5 Judge Creatura to determine whether the amended petition remedies the deficiencies

6 identified in the June 25, 2020 order (Dkt. 4).

7 IT IS SO ORDERED.

8 Dated this 13th day of October, 2020.



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10 BENJAMIN H. SETTLE
11 United States District Judge
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